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 20 *Champion Tankers, AS*

21 UNITED STATES DISTRICT COURT
 22 NORTHERN DISTRICT OF CALIFORNIA

23 THOMAS COOK,)	Case No. CV 12 1965 JSW
)	
24 Plaintiff,)	STIPULATION AND [PROPOSED]
25 vs.)	ORDER BIFURCATING HEARING AND
)	EXTENDING BRIEFING SCHEDULE ON
26 CHAMPION TANKERS AS,)	DEFENDANT’S MOTION TO DISMISS
)	AS MODIFIED
27 Defendant.)	
)	

28 WHEREAS Defendant CHAMPION TANKERS A.S. has filed a Motion to Dismiss on the
 bases of *Res Judicata*, Collateral Estoppel, Lack of Personal Jurisdiction, and *Forum Non*
Conveniens on November 8, 2012, which Motion is set for hearing on January 18, 2013 (Docket No.
 30);

WHEREAS the Parties agree that the issues raised by Defendant’s Motion to Dismiss on the

1 bases of *Res Judicata* and Collateral Estoppel pose no issues of fact, require no preliminary
2 discovery, and may be briefed, submitted, and decided as a pure matter of law;

3 WHEREAS Plaintiff asserts, and Defendant denies, that the issues raised by Defendant's
4 Motion to Dismiss on the basis of Lack of Personal Jurisdiction and *Forum Non Conveniens* pose
5 threshold issues of fact;
6

7 WHEREAS Plaintiff intends to request this Court's permission to undertake limited,
8 threshold discovery relating to Defendant's jurisdictional and *Forum Non Conveniens* arguments
9 before briefing those issues or submitting them for decision;

10 WHEREAS Defendant intends to oppose any request by the Plaintiff for threshold discovery;

11 WHEREAS the Parties agree that their dispute with respect to said threshold discovery may
12 be avoided if the Court decides to grant Defendant's Motion to Dismiss the case on the bases of *Res*
13 *Judicata* and Collateral Estoppel;
14

15 WHEREAS Plaintiff's opposition to the Motion to Dismiss is due pursuant to Civil L.R. 7-4
16 on November 23, 2012 , the day after the Thanksgiving holiday;

17 IT IS HEREBY STIPULATED BY AND BETWEEN THE PARTIES, BY AND THROUGH
18 THEIR RESPECTIVE UNDERSIGNED ATTORNEYS OF RECORD, that:

19
20 1.) Defendant's Motion to Dismiss may be bifurcated for hearing, such that
21 briefing and argument on the issues of *Res Judicata* and Collateral Estoppel will be
22 heard first on January 18, 2013;

23 2.) Plaintiff's time to file an opposition to the bifurcated Motion to Dismiss on the
24 issues of *Res Judicata* and Collateral Estoppel shall be extended to and including December
25 7, 2012, and Defendant's time to reply thereto shall be extended to and including January
26 8, 2013;

27 3.) If, and only if, the issues of *Res Judicata* and Collateral Estoppel are decided
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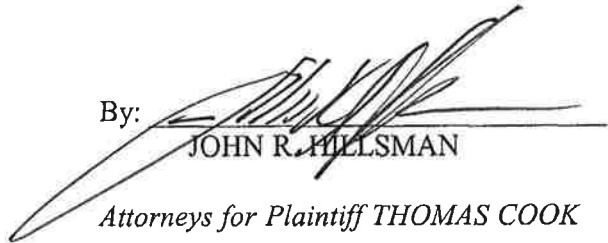
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in Plaintiff's favor, Plaintiff may seek permission, subject to Defendant's opposition, from the Court to obtain discovery on the limited issues of personal jurisdiction and *Forum Non Conveniens*. Defendant's Motion to Dismiss on the bases of *Forum Non Conveniens* and Personal Jurisdiction shall be briefed and heard in accordance with a schedule to be set by the Court.

Dated: November 14, 2012

McGUINN, HILLSMAN & PALEFSKY

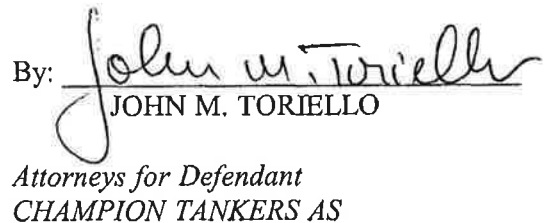
By:


JOHN R. HILLSMAN
Attorneys for Plaintiff THOMAS COOK

Dated: November 19, 2012

HOLLAND & KNIGHT, LLP

By:


JOHN M. TORIELLO
*Attorneys for Defendant
CHAMPION TANKERS AS*

**ORDER BIFURCATING HEARING ON DEFENDANT'S MOTION TO DISMISS
AS MODIFIED**

The parties' Stipulation for an Order bifurcating Defendant's Motion to Dismiss is accepted by the Court. Defendant's Motion to Dismiss shall be and hereby is bifurcated for hearing, such that briefing and argument on the issues of *Res Judicata* and *Collateral Estoppel* will be heard first on January 18, 2013. Plaintiff's time to file an opposition to said motion is extended to and including

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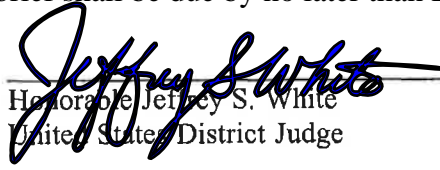
December 7, 2012, and Defendant's time to reply thereto is extended to and including January 8, 2013. If, and only if, the issues of *Res Judicata* and Collateral Estoppel are decided in Plaintiff's favor, Plaintiff may seek permission, subject to Defendant's opposition, to obtain discovery on the limited issues of personal jurisdiction and *Forum Non Conveniens* in accordance with a schedule to be established by the Court. Defendant's Motion to Dismiss on the bases of *Forum Non Conveniens* and Personal Jurisdiction shall be briefed and heard in accordance with a schedule to be set by the Court. Defendants have not shown why they need thirty days to prepare a reply brief. In addition, the reply brief is due to be filed ten days before the hearing, which is less than the time permitted under the Local Rules.

~~PURSUANT TO STIPULATION, IT IS SO ORDERED.~~

If the Defendants show good cause for filing a reply on January 8, 2013, the Court shall continue the hearing by one week to January 25, 2013. Otherwise, Defendants' reply brief shall be due by no later than December 21, 2012.

Dated:

November 14, 2012


Honorable Jeffrey S. White
United States District Judge